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SUBJECT: DRC SUPREME COURT CLOSING OUT BACKLOG OF NATIONAL ASSEMBLY ELECTION CHALLENGES

REF: A. KINSHASA 179

1B. 06 KINSHASA 1714

1C. KINSHASA 87

1D. 05 KINSHASA 2168

11. Summary. The DRC Supreme Court is closing out the final cases challenging the results of the July 30 National Assembly elections. Several prominent names were included in a group of decisions announced at the end of February. The large number of cases highlights the necessity of electoral as well as judicial reforms. End summary.

12. (U) Former trade minister Roger Lumbala, Presidential aide Kikaya bin Karubi and veteran politician Cleophas Kamitatu were among the prominent protagonists in recent decisions by the DRC Supreme Court on a backlog of challenges to the results of the July 30 National Assembly elections. The Court had fallen behind on adjudicating numerous cases filed during the September 8-11 challenge period (ref A), but beginning on February 23, in the words of one press report, "decisions began falling en masse." Only five cases reportedly remained to be adjudicated as of March 2.

13. (U) Lumbala (RCD-N) and Kikaya (PPRD) were among five candidates whose initial victories were restored by the Court on reconsideration February 27. Radio Okapi reported that the Court overturned its own earlier decisions invalidating the election of Lumbala, Kikaya and three other candidates on the grounds that none of the five had been informed of the challenges and so had not appeared to respond to them.

14. (U) Roger Lumbala, whose rival Joseph Lumbala had earlier and successfully argued that Roger Lumbala and several associates had engaged in voter fraud (ref B), had in the interim been elected to the senate from Eastern Kasai (ref C). Lumbala told reporters March 1 that he intended to stay in the Assembly and would resign from the Senate. "I chose the National Assembly because that is where oversight of the government is vested," he said. Lumbala had been dismissed as a Transition government minister in November 2005 by President Kabila after being cited in the Lutundula Commission report on corruption in mining sector contracts (ref D).

15. (SBU) Kikaya, Kabila's private secretary until being elected to the Assembly from Maniema, had received the third highest number of votes of any candidate nationwide. The Supreme Court ruling overturned its decision to set aside Kikaya's victory because he had run on a ticket with a public employee, an ineligible candidate under DRC election rules. The appeal was a matter of principle for Kikaya; in fact, he

is unlikely to remain in the Assembly if offered another position by Kabilia. "I want to be where the action is," he told us February 10 as the court was preparing to hear the case, a standard he clearly feels the Assembly cannot meet.

¶6. (U) Cleophas Kamitatu (CODEP), father of Olivier Kamitatu and a longtime presence in Congolese politics, had his challenge to the election of Tryphon Kin-kiey Mulumba (Independent/AMP) in Bandundu rejected by the Court February 26 in one of 16 cases decided that day. Mulumba is the owner of the online news site Le Soft International, the last information minister of the Mobutu regime and later an official of the then-rebel RCD. The court had accepted the case for judgment, but ruled Kamitatu had not provided sufficient proof to support a detailed ten-point case for invalidating Mulumba's election.

¶7. (SBU) Comment: All outstanding challenges to National Assembly results should have been resolved long ago. The court's six-month odyssey to resolve a total of 372 challenges to 500 races highlights the need for reform of not only the judicial but the electoral system as well. The Supreme Court is the sole venue for challenges to National Assembly races, and as some of these cases show, is even empowered to overrule itself. End comment.

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